



**[BILLING CODE: 6750-01S]**

**FEDERAL TRADE COMMISSION**

**Agency Information Collection Activities; Proposed Collection; Comment Request**

**AGENCY:** Federal Trade Commission (“Commission” or “FTC”).

**ACTION:** Notice.

**SUMMARY:** The FTC plans to conduct a study to examine the factors influencing consumers’ decisions to participate in a class action settlement, opt out of a class action settlement, or object to the settlement. This is the first of two notices required under the Paperwork Reduction Act (“PRA”) seeking public comments on proposed research before requesting Office of Management and Budget (“OMB”) review of, and clearance for, the collection of information discussed herein.

**DATES:** Comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested parties may file a comment at

<https://ftcpublic.commentworks.com/ftc/decidingfactorsstudypra> online or on paper, by

following the instructions in the Request for Comment part of the **SUPPLEMENTARY**

**INFORMATION** section below. Write “Class Action Deciding Factors Study, Project No.

P024210” on your comment, and file your comment online at

<https://ftcpublic.commentworks.com/ftc/decidingfactorsstudypra> by following the instructions on

the web-based form. If you prefer to file your comment on paper, write “Class Action Deciding

Factors Study, Project No. P024210” on your comment and on the envelope, and mail your

comment to the following address: Federal Trade Commission, Office of the Secretary, 600

Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Robin Moore, Attorney, 202-326-2167, Division of Enforcement, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The Commission's Class Action Fairness Project strives to ensure that class action settlements in consumer protection and competition matters provide appropriate benefits to consumers and that class action counsel or defendants are not inappropriately benefitting at the expense of class members. As part of this program, the FTC monitors class actions and files amicus briefs or intervenes in appropriate cases;<sup>1</sup> coordinates with state, federal, and private groups to advise them and to seek suggestions on matters that merit FTC attention; and monitors the progress of legislation and class action rule changes.

### **II. The FTC's Proposed Study**

#### **A. Study Description**

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<sup>1</sup> See e.g., FTC's Mem. of Law as Amicus Curiae, *Nwabueze v. AT&T, Inc.*, 3:09-cv-1529 (N.D. Cal. Aug. 30, 2013), available at [https://www.ftc.gov/sites/default/files/documents/amicus\\_briefs/nwabueze-v.att-inc./130830nwabuezeamicus.pdf](https://www.ftc.gov/sites/default/files/documents/amicus_briefs/nwabueze-v.att-inc./130830nwabuezeamicus.pdf); FTC's Mem. of Law as Amicus Curiae, *White v. EDebitPay, LLC*, 2:11-cv-06738 (C.D. Cal. Aug. 9, 2013), available at [https://www.ftc.gov/sites/default/files/documents/amicus\\_briefs/anita-white-et-al.v.edebitpay-l.l.c.et-al.no.211-cv-06738-cbm-ffm-c.d.cal-august-9-2013/130809edebitpayamicusbrief.pdf](https://www.ftc.gov/sites/default/files/documents/amicus_briefs/anita-white-et-al.v.edebitpay-l.l.c.et-al.no.211-cv-06738-cbm-ffm-c.d.cal-august-9-2013/130809edebitpayamicusbrief.pdf); Mot. of FTC for Leave to File Brief as Amicus Curiae, *Moore v. Verizon Commc'ns, Inc.*, 4:09-cv-08123 (N.D. Cal. Aug. 17, 2012), available at [https://www.ftc.gov/sites/default/files/documents/amicus\\_briefs/moore-v.verizon-communications-inc./120817mooreverizonamicusbrief.pdf](https://www.ftc.gov/sites/default/files/documents/amicus_briefs/moore-v.verizon-communications-inc./120817mooreverizonamicusbrief.pdf).

To further these goals, the FTC plans to conduct a consumer research study to determine what factors influence a consumer's decision to participate in a class action settlement, opt out of a class action settlement, or object to the settlement. Specifically, the study will examine whether consumers' comprehension of their options, the amount consumers expect to receive from the settlement, or the complexity of the settlement process impacts their decision to participate in a settlement. To conduct the study, FTC staff will directly contact consumers who have received class action notices. We plan to use the results, along with other information such as public comments, to guide the FTC's Class Action Fairness Project.

Having considered the costs and benefits of various data collection methods, the FTC staff has concluded that directly contacting recipients of nationwide class action notices will provide the most efficient way to collect data to meet the research objectives within a feasible budget. Thus, the FTC proposes to collect responses from a broad spectrum of the U.S. adult population. Participants will be drawn from information provided by settlement administrators who have administered nationwide class actions. All participation will be voluntary. While the results will not be generalizable to the U.S. population, the Commission believes that they will provide useful insights into consumer understanding of the claims being considered.

#### **B. PRA Burden Analysis**

Staff estimates that respondents will require, on average, 20 minutes to complete the questionnaire. Staff will pretest the questionnaire with approximately 100 respondents to ensure that all questions are easily understood. Allowing for an extra three minutes for questions unique to the pretest, the pretest will total approximately 38 hours, cumulatively (100 respondents x 23 minutes each). Once the pretest is completed, the FTC plans to seek

information from up to 8,000 respondents for approximately 20 minutes each. Thus, respondents will cumulatively take approximately 2,700 hours. The cost per respondent should be negligible. Participation will not require start up, capital, or labor expenditures.

### **III. Request for Comment**

Under the PRA, 44 U.S.C. 3501-3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. “Collection of information” means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party.<sup>2</sup> As required by Section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the regulations noted herein.

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on:

(1) whether the reporting requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [insert date 60 days from FEDERAL REGISTER date of publication]. Write “Class Action Deciding Factors Study, Project No. P024210” on your comment. Your comment – including your name and your state – will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission

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<sup>2</sup> 44 U.S.C. 3502(3); 5 CFR 1320.3(c).

Website, at <http://www.ftc.gov/os/publiccomments.shtml>. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually-identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which . . . is privileged or confidential," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively-sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).<sup>3</sup> Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that

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<sup>3</sup> In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/decidingfactorsstudypra>, by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#/home>, you also may file a comment through that website.

If you file your comment on paper, write “Class Action Deciding Factors Study, Project No. P024210” on your comment and on the envelope and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Room CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [60 days from FEDERAL REGISTER date of publication]. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

By direction of the Commission.

Donald S. Clark,  
Secretary.  
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